

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
NOVEMBER 10, 2010**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Gordon Cross, Charles Lapp, Frank DeKort, Marc Pitman, Jim Heim, Jeff Larsen and Bob Keenan. Marie Hickey-AuClaire and Mike Mower had excused absences. BJ Grieve and Allison Mouch represented the Flathead County Planning & Zoning Office.

There were 14 people in the audience.

**APPROVAL OF
MINUTES**

DeKort made a motion, seconded by Pitman to approve the October 13, 2010 meeting minutes *as corrected*.

The motion passed by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**WEST RESERVE
CITY/COUNTY
MASTER PLAN
AMND
(FPMA 10-02)**

A request by the Flathead County Planning & Zoning Office for a Land Use Map Amendment to the Kalispell City/County Master Plan 2010. The proposed amendment would change the land use designation from "Suburban Agricultural" to "Commercial" on properties located generally east of the Whitefish River, west of the railroad tracks and only involves properties having direct driveway access onto West Reserve Drive. It is important to note that a master plan map amendment is not a zone change and will not affect the current zoning on the properties involved. The Kalispell City/County Master Plan 2010 is the foundation upon which current and future zoning is based; changes to current zoning require a separate application and public process, and would be initiated by the individual property owner(s) involved.

STAFF REPORT

Mouch reviewed Staff Report FPMA 10-02 for the Board.

**BOARD
QUESTIONS**

Larsen, Lapp and Mouch briefly discussed how many people were opposed to the amendment and how many parcels of land were split by the amendment.

Lapp and staff discussed how the setbacks were decided on and

why one of the parcels west of the tracks was not included.

Lapp and Mouch discussed how future development could proceed and possibly be affected with 2 types of zoning on a parcel.

Lapp, Mouch and Grieve also discussed a potential scenario if the amendment was approved. This scenario was what would happen if a parcel which was split by zoning asked for a zone change. They discussed the issue at length.

DeKort and Mouch discussed how the amendment would affect traffic quality, the role of Montana Department of Transportation (MDT) in this situation, how much traffic would realistically increase, and the existing improvements on West Reserve by MDT and those which were planned for the future.

Cross and Mouch talked about the reason for changing the underlying master plan map, zone changes which had gone through the process and ignored the underlying zone and the process for review.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Marty Watkins, 142 West Reserve, said she was in a catch 22. She was concerned about property values. She requested moving the boundary line west to include the three properties which had been left out originally to give the owners another option in the future. She would like to see the whole area included in the amendment.

Lapp asked if she had ever done any topographic work to know where the floodplain was.

Watkins said no, but she knew the trend.

Sandra Sievers, 113 Ardell Dr, spoke of her property being natural. She stated there were so many properties zoned for commercial use sitting vacant and was concerned about the traffic. She was against the application.

Tammi Fisher, 522 2nd Ave E, represented a neighboring property owner to the application. She gave the board members a handout which included a petition which showed property

owners who were opposed to the application. She spoke of possible spot zoning issues, traffic issues in the area and inconsistent commercial properties. She felt it wasn't necessary to change the map amendment because the properties that wanted to be commercial were already zoned commercial. She spoke of a conditional use permit (CUP) violation in the area, enforcement of the zoning regulations and setting precedence with the allowance of a violator to continue to ask for forgiveness rather than ask for permission. She spoke for her client who was against the application.

Cross asked if the signatures were within the boundary of the amendment.

Fisher pointed out the properties on the map.

Grace Wells, 119 Ardel Dr, was opposed to the amendment.

Jim Schmauch, 282 Rosewood Dr, was opposed to the amendment strictly due to the traffic in the area.

**STAFF
REBUTTAL**

Mouch confirmed what Watkins had requested in regards to the boundary line adjustments.

Cross explained the process for approval or denial of this application to the audience.

**BOARD
DISCUSSION**

Cross asked staff about the violation of a CUP presented in the public comment session.

Mouch stated it was in litigation through the court system. The issue had been ongoing for well over a year, was relevant, and the church was within the proposed amendment area. They were in favor of the amendment but the approval of the application did not get them an end run around the zoning. They still needed to go through the process. She explained further.

Cross asked for more clarification.

Mouch said whether the application was approved or not, there was still a setback violation.

Grieve spoke of the criteria being reviewed and the board's role. He explained further and gave examples of issues brought to the

attention of the planning office. He explained staff had approached the commissioners for guidance on this amendment before bringing it to the board.

**MAIN MOTION
TO
RECOMMEND
DENIAL
(FPMA 10-02)**

Keenan made a motion seconded by Pitman to recommend denial to the Board of County Commissioners.

**BOARD
DISCUSSION**

Pitman and Heim discussed addressing impacts to traffic if an amendment was being proposed, changes on the road over the years, other things which affected traffic and ways to mitigate those effects such as a frontage road with a light.

Heim spoke of development in the area and it not being a place for residential zoning in the future. The maps presented were designed for long range planning.

Pitman and Heim discussed the issue further.

Lapp was concerned about larger commercial developments in the area and the area not being able to handle the traffic. He gave examples. He was not against commercial development in the area but didn't feel the area could handle a large commercial development.

Pitman and Cross discussed Pitman's concerns regarding traffic and individual zone changes.

Larsen said they had to make a decision whether or not this was appropriate for the area. The mitigation came later. The board could not come up with a transportation plan for the area at this time. There were different circumstances for each site.

Pitman stated the piecemeal approach was his concern.

The board discussed mitigation and land use designation.

Heim felt if the area was designated as commercial, then all of the issues which had been brought up could be taken care of. If the amendment did not pass, then it would be a piecemeal approach to development. The area was a natural place for commercial development long term.

Cross spoke of the zone changes that had been done in the past and zoning in the area. The board had been cleaning up the zoning for what was already in the area. He was not sure about the rationale for extending the area to the west. There was bound to be conflict between suburban residential and commercial when they were next to each other. He said the board may be sending mixed signals as to how they wanted issues like this resolved with past requests for an application like this one and a motion for denial before them now on this amendment. He was not sure this amendment was what the board wanted. He appreciated the work that had been done, but he didn't feel the end result was the best for the county and would support a denial at this stage.

Keenan agreed with what everyone had already stated. If the board voted in favor of the resolution without a solution for traffic which they all recognized as being a problem, then they weren't fixing a problem which was already there.

Larsen stated Cross had made a good point regarding zone changes in the past. He understood what staff was trying to do with the amendment, but it was difficult to support it.

Lapp spoke of businesses along the roads and his perception of how West Reserve was used as a cut across to get to where he needed to go which was either Highway 93 or Highway 2.

Heim said in spite of what the board did tonight, the road would eventually become commercial over time. They should support this and work on the traffic issues later.

Keenan said they just need to keep the traffic moving. If the board supported this they were creating more traffic issues by opening the area up for more commercial.

Cross commented this was a master plan amendment not zoning. There was not a compelling case for why the area needed to be commercial at this time. In his opinion, there was no huge demand for people who wanted to do commercial projects at this time.

Lapp spoke of other zone changes that were already done and if someone in the future came to them and had a plan, they would have just as good a shot to receive the commercial designation.

Heim said if the board denied the amendment now, they would need to deny commercial zone changes later. It was a consistency issue.

Lapp asked if this was approved would they then approve every commercial zone change in the future.

The board discussed the issues further which were mainly the road and setback issues, and appropriateness of a commercial designation for the area.

Cross asked if staff would want to withdraw the application and work on it further.

Grieve said if that was the suggestion of the board. This was why public hearings were held. Staff saw a problem and the application was an attempt to fix it. Staff didn't want to expend public resources on the project if the board and commissioners didn't want to do it. Because of public testimony, greater consideration, and if there was no real will to move forward, it might be best to pull the application.

Cross said maybe they could withdraw it and work on it more.

Lapp asked if there were people that were really in favor of this.

Staff said they received postcards back from a mailing of the area saying they were in favor of the application and their comments were summarized in paperwork originally given to the board when the application was first brought to the board's attention. The people who had commented in favor of the application stated opinions similar to Heim's where they saw the area going towards commercial in the future and this was an opportunity to think about options moving forward. That included people who were west of the boundary.

The board and staff discussed reasons for the amendment and the process which had been followed.

Grieve stated staff will officially pull this application tonight and bring it back as warranted.

Keenan stated staff could go to the commissioners, since they approved the resources to pursue this application, and explain the situation the board found themselves in and see if they

wanted to pursue the issue.

Grieve spoke about the process the application had gone through and where staff should go from this point.

Lapp read from the zoning regulations concerning boundaries between commercial and residential areas and asked staff if they physically go look at zone changes and see if they were complying with the building of the required boundary fencing or landscaping.

Grieve said if the board would like to tell the commissioners to allocate the resources to the office to hire staff to check up on zoning to that level of detail countywide, then staff would have the resources to do that. As of right now, the office didn't have staff or resources to allocate for that level of follow up.

Keenan withdrew his motion. Pitman conferred.

A member of the audience asked the board what would happen now with the application.

Cross explained the process which would be followed from this point on.

Grieve said if it was brought back, it would be heard in the same room, same time of night, and public notice would be given. The same process would be followed as was for this meeting.

Cross called a 5 minute recess.

COMMITTEE REPORTS

Committee A will meet November 17th.

Committee B was trying to set up a meeting to discuss zoning regulations.

Pitman said he would be willing to switch committees since he couldn't meet during business hours.

Heim said he would switch committees with Pitman.

Gordon set Thursday, November 18th at 3:30 for Committee 'B' to meet.

OLD BUSINESS

The board re-visited the application by Noonan et al.

Hagemeier gave a status report. He handed out the information to the board. There was a new definition, which was Highway 93 Corridor overlay zoning. He summarized the changes and spoke of having a workshop with the board.

DeKort asked if this would be a substantial change to the original application.

Grieve said it was a change. It was a different application and a public hearing would have to be held. He presented the board options for continuing the process for this particular application. He gave them the statutory requirements and urged them to not postpone or continue indefinitely the application but to set date certain meetings for continuing the process.

Cross had spoken with the technical representative for the applicant and had asked what the desires of the clients were. It was agreed that the applicants receive a fair shake from the board.

Grieve and the board discussed what the definition Highway 93 Corridor overlay zoning entailed and how it could be alternately worded.

Larsen said the board owed it to the applicant to proceed.

The December agenda was discussed and a planning board workshop was set for December 15th to discuss the existing text amendment.

The way things would continue was discussed concerning the Noonan et al files.

Cross spoke about a letter he drafted after discussions with the area city planning board members which concerned issues discussed in their meetings. The letter was sent to Ken Meckel, John Hinchey and Tom Jentz for review. He felt the county should have proper representation at future meetings with all three boards concerning the Highway 93 corridor because the majority of the area was within the county jurisdiction.

The board discussed at length, with brief input from Marilyn Noonan, the 93 corridor issue further and which way they wanted to continue.

Larsen was concerned about the time element involved with the project as well as staff time.

The board and Grieve continued to discuss Highway 93 corridor issues.

Cross will send an email to everyone stating a discussion had been held and more standards needed to be in place before a letter was sent to the commissioners. A scope of work was needed.

NEW BUSINESS None.

ADJOURNMENT The meeting was adjourned at approximately 8:20 pm. on a motion by Heim. The next meeting will be held at 6:00 p.m. on December 8, 2010.

Gordon Cross, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 12 / 8 / 10*